

**The Advisory Committee on Commercial Operations
Of Customs and Border Protection (COAC)
Comments from the
Trade Enforcement and Revenue Collection Subcommittee
October 2014**

Background

At the March 6, 2013, meeting of the 13th Term Commercial Operations Advisory Committee (COAC) in Washington, D.C., the Committee established the Trade Enforcement and Revenue Collection Subcommittee, a blending of the Intellectual Property Rights, Bonds, AD/CVD Subcommittees from the 12th Term COAC, and adding Regulatory Audit. The objectives for the Subcommittee are to generate advice and develop recommendations pertaining to improving enforcement of the trade laws of the United States and the collection of duties and fees. Enforcing U.S. trade laws adds not only to the security of the global supply chain and our nation, but expedites products into the marketplace. Identifying and expediting compliant trade by enforcing our trade laws adds to both our national security and facilitation efforts. With compliant trade identified and appropriate fees and duties assessed, CBP can then focus its limited resources on non-compliant and higher risk commerce.

Given the above objectives, COAC's Trade Enforcement and Revenue Collection (TERC) Subcommittee developed a Statement of Work which outlines its focus for this term.

Outline of Work

It is expected that, during the lifespan of this Subcommittee, the focus will be on providing advice and recommendations that covers, but will not be limited to, the following areas: Intellectual Property Rights, Anti-Dumping and Countervailing Duties, Bonds and Regulatory Audit.

Each of these issues will be further refined and discussed in its Working Group that in turn will report back to the larger Subcommittee. These Working Groups will be supported by a broad range of stakeholders and the advice provided will incorporate the views and address the concerns of industries impacted by the projects.

Summary of Work

Since the initial launch of the TERC Subcommittee, four Working Groups have been opened including a Regulatory Audit Working Group, an Intellectual Property Rights Working Group, a Bond Working Group and an Anti-dumping / Countervailing Duty Working Group.

Regulatory Audit Working Group

The COAC has been advised that CBP intends to conduct a webinar for the trade in October of 2014 to provide an update on the Focused Assessment changes that were discussed during the February 2014 public COAC meeting.

At this time, the Regulatory Audit Working Group is on hiatus until such time as CBP presents the COAC with additional topics for review.

Intellectual Property Rights Working Group

➤ Voluntary Disclosure Recommendation

The Intellectual Property Rights Working Group (IPRWG) has continued its work on the Voluntary Disclosure recommendation that was made at the May 2014 public meeting, focusing specifically on the 2nd recommendation:

1. The COAC recommends that CBP pilot a Voluntary Disclosure program for IPR within the next 12 months that will allow members of the trade to provide CBP with intelligence for targeting purposes by voluntarily disclosing violations of the laws prohibiting importation of goods infringing U.S. registered trademarks or copyrights. The goal of the program should be to enable the trade community to work with CBP to stop infringing items imported contrary to law from being sold or delivered into the commerce of the United States.
2. The COAC recommends that CBP open a Working Group to finalize the details of the pilot program using both the July 20, 2010 document that was co-created by CBP and the COAC as well as stakeholder input as a framework for that discussion and allow the COAC to comment on the final program document before implementation of the pilot.
3. The COAC recommends that CBP collect and share pilot results with the COAC, offering the COAC an opportunity to further review and comment on the initiative.

The Voluntary Disclosure working group has put forward some comments, suggestions and questions to CBP so that a determination can be made about the viability of the program across the trade. Specifically, some of the topics that have been discussed include:

- Whether gray market goods importers would be excluded from the program
- A complete list of the factors CBP would use to determine whether to accept an IPR Voluntary Disclosure
- Whether CBP would use a prior CF-28 to exclude an IPR Voluntary Disclosure

- A list of the differences between IPR Voluntary Disclosure and the disclosure program many importers are using today so there's no confusion
- The time frame CBP would have to make a determination on the disclosure
- The possibility of voluntary abandonment of subsequent shipments after a disclosure is made and trade intelligence is provided to CBP
- Partner Government Agency overlap
- Benefits of the program vs. protections

The working group expects to have feedback from CBP in the coming weeks that can be used to help formulate a recommendation to the full COAC on the viability of the program in advance of the January public meeting.

➤ Simplified Abandonment for Express Consignment Recommendation

The trade is pleased to learn that CBP has moved forward to implement a simplified abandonment process for shipments suspected of an IPR violation in the express consignment environment based on the COAC's May 2014 recommendations. We look forward to an update from CBP on the progress of this initiative at the October 2014 public meeting.

➤ Document Imaging System Recommendation

The COAC was pleased to learn that CBP has also moved forward on its Document Imaging System recommendation quickly. A recent CSMS message from CBP announced a pilot of a program that will allow importers to voluntarily submit approved documents to CBP in advance of entry to substantiate a shipment's IPR authenticity at targeting. CBP intends to move forward on the pilot in 2014 and the COAC looks forward to receiving regular updates on progress.

The IPRWG will continue its discussions on all of these topics and on the IPR Known Importer program on regular, conference calls throughout the balance of this COAC term.

Bond Working Group

The Bond Working Group has continued its work on the e-bond topic. Updates have been given to the Working Group on the development of ACE e-bond, the compilation of FAQ's to help inform the trade about progress and the new process and the status of the new bond regulations for e-bonds. The Bond Working Group expects to provide additional updates to the trade on these topics during the October 2014 public meeting.

Anti-Dumping & Countervailing Duty Working Group

This working group was expanded in 2014 in an effort to discuss AD/CVD issues across a wide range of diverse stakeholders. The current group includes experienced representatives from many industries and perspectives.

The mission of this working group remains the following:

- Strengthen partnerships between CBP and the trade community to promote compliance with AD/CVD laws and policy
- Improve the effectiveness of AD/CVD risk assessment through better identification of high and low risk shipments and/or entities
- Identify effective approaches for deterring AD/CVD violations
- Support other steps to enable more effective administration and enforcement of AD/CVD operations.

In line with this mission, several topics have been identified as key areas of focus. Meetings in the form of weekly conference calls have focused on the following areas:

- Impact of requiring cash deposits vs. bonds for new shippers
- Effectiveness of increased use of single transaction bonds
- Additional outreach and education with particular areas of focus including increased clarity related to the scope of a case as well as whether outreach can help counter illicit schemes such as transshipments.
- Increased coordination between CBP and the Department of Commerce as well as any other agencies that work on other aspects of AD/CVD cases
- Better coordination between CBP and the trade in specific cases
- Tools to help more quickly and efficiently communicate important changes and information to the importer and broker community
- Emphasizing the importance of CBP with intelligence work overseas in ways that can help enhance enforcement

The goal of this working group is the development of specific recommendations related to the discussions as well as consideration of any additional ideas that can help with the mission. The group recognizes that this is an extremely challenging area with no single idea that will likely serve as a panacea in the current system. However, this is a very diverse and experienced working group so the hope is that by bringing forth a wide range of tangible ideas across different areas – we can help make recommendations that will increase the efficiency and effectiveness of the system in place. The AD/CVD working group will continue its work throughout the current term.

Summary

It is expected that all of the Working Groups will continue to address new and carry over topics from the previous COAC term in its efforts to collaborate with CBP to improve enforcement of the trade laws of the United States and the collection of duties and fees.

Respectfully submitted:
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